

ORIGINAL



0000104412

BEFORE THE ARIZONA CORPORATION COMMISSION

2009 OCT 30 P 2:12

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF)
NEWPATH NETWORKS, LLC, FOR APPROVAL)
OF A CERTIFICATE OF CONVENIENCE AND)
NECESSITY TO PROVIDE TRANSPORT AND)
BACKHAUL TELECOMMUNICATIONS)
SERVICES)

DOCKET NO. T-20567A-07-~~0062~~ 0662

**Motion for Procedural
Conference**

NewPath Networks, LLC ("NewPath"), a New Jersey limited liability company respectfully requests that the Administrative Law Judge schedule a procedural conference to discuss the status of this matter, so that any concerns or issues may be addressed and NewPath may receive its Certificate of Convenience and Necessity ("CC&N").

On November 25, 2007, NewPath filed with the Commission an application for a Certificate of Convenience and Necessity ("CC&N") to provide transport and backhaul telecommunications services in Arizona.

On February 18, 2009, a hearing was held as scheduled before a Judge Kinsey, a duly authorized Administrative Law Judge of the Commission. The matter was scheduled for a second day of hearing.

On April 10, 2009, the Town of Carefree ("Carefree"), the Town of Paradise Valley ("Paradise Valley") and the City of Scottsdale ("Scottsdale") filed Motions to Intervene in this matter. On April 17, 2009 a Procedural Order was issued granting said Motions to Intervene.

On April 27, 2009, the public hearing reconvened. At Staff's request the hearing was continued and the matter recessed.

Arizona Corporation Commission
DOCKETED

OCT 30 2009

DOCKETED BY

mm

1 On June 10, 2009, Scottsdale filed a Motion to Withdraw as Party and Notice to
2 Withdraw Hearing Memorandum having settled its issues with NewPath. The requested
3 withdrawal was granted.

4 On October 2, 2009 Paradise Valley filed a Motion to Withdraw As Party (With
5 Prejudice) and Notice of Withdrawal of Hearing Memorandum having entered into an
6 agreement with NewPath that establishes a working relationship on an going-forward basis. By
7 Procedural Order dated October 6, 2009, the requested withdrawal was granted.

8 On October 23, 2009, Carefree filed a Motion and Notice of Withdrawal of Hearing
9 Memorandum.

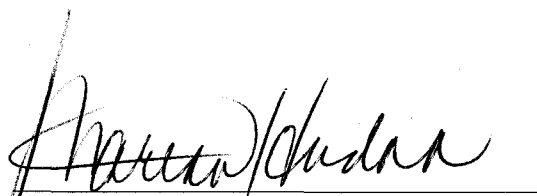
10 On October 26, 2009, NewPath filed a Motion to Request an Expedited Recommended
11 Opinion and Order or in the Alternative an Expedited Hearing Date.

12 NewPath has resolved any issues with the City of Scottsdale, the Town of Paradise
13 Valley and the Town of Carefree. Staff has recommended approval of NewPath's CC&N.
14 Moreover the Commission has recently approved similar CC&N applications. *See NextG*
15 *Networks of California, Inc.*, Decision No. 68915 (Aug. 29, 2006) (granting a CC&N to
16 provide "private line and intrastate access services"); *See also Extenet Systems, Inc.* Decision
17 No. 71294 (Oct. 7, 2009) (granting a CC&N to "provide private line point-to-point fiber
18 transport service for wireless service providers").

19 In order to ensure that NewPath can comprehensively address any issue related to its
20 pending CC&N, it will have in attendance its General Counsel and outside counsel. NewPath
21 requests that the conference be scheduled as soon as possible and suggests November 3 or 5.

22 Respectfully submitted this 28th day of October, 2009.

23
24 CHANNEL LAW GROUP, LLP

25
26 
27 Martha Hudak
28 Attorney for NewPath Networks, LLP

Original and 13 copies of the foregoing filed this 28th day of October 2009 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Copy of the foregoing mailed this 28th day of October 2009 with:

Michael T. Hallam, Esq.
Lewis and Rocca, LLP
40 North Central Avenue
Phoenix, AZ 85004

Lyn Farmer
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Lynne Lagarde, Esq.
Earl Curley & Lagarde, PC
3100 North Central Avenue, Suite 1000
Phoenix, AZ 85012

Arizona Reporting Service
2200 N. Central Ave., Suite 502
Phoenix, AZ 85004

Donnelly Dybus, Esq.
16435 N. Scottsdale Road, Suite 440
Scottsdale, AZ 85254-1754

J. Gregory Lake, Esq.
Lake & Cobb, PLC
1095 West Rio Salado Pkwy, Suite 206
Tempe, AZ 85281

Thomas K. Chenal
Sherman & Howard, LLC
7047 East Greenway Parkway, Suite 155
Scottsdale, AZ 85254

Steve Olea, Director
Utilities Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Janice Alward, Chief Counsel
Maureen A. Scott, Esq.
Legal Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007